

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING  
September 16, 2003**

PLACE: Room 206  
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:  
Damanti, Spain, Kenny, Forman, Conze

STAFF ATTENDING: Ginsberg, Keating

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Chairman Damanti read the first agenda item:

**Amendment to Zoning Map, Robert & Suzanne Cottle, 154 Christie Hill Road.** Proposing to amend the Darien Zoning Map by moving the boundary between the R-1 and R-2 zones in the vicinity of Christie Hill Road and Halter Lane. The subject property is located on the south side of Christie Hill Road approximately 500 feet west of its intersection with Hollow Tree Ridge Road and is shown on Tax Assessor's Map #28 as Lot #27, R-2 & R-1 Zones.

Chairman Damanti said that he shares office space with Attorney Stephen Pierson and he understands that Mr. Pierson will be participating in the public hearing as a representative of some of the neighbors. Mr. Damanti said that he sees no conflict of interest but, asked if anyone else sees a potential conflict of interest or a reason why he should not participate. No one objected to his participation in this matter.

Attorney Robert Maslan representing Dr. & Mrs. Cottle submitted a copy of page 42 of the 1967 Town Plan of Development and copies of a map showing the existing and proposed zoning boundary lines. He said that he also filed copies of the materials with the Town Clerk in accordance with State Statutes.

Attorney Maslan showed an enlarged map and pointed out that approximately ½ of the subject property is in the R-2 zone where 2 acres is required for each building lot and approximately ½ of the property is in the R-1 zone where 1 acre is required for each building lot. He pointed out the wetlands on the south portion of the property and a small pocket of wetlands on the easterly portion of the site. He said that the zone boundary between the R-1 and R-2 districts is 500' to the west of the right of way of Hollow Tree Ridge Road. He said when the old zoning maps were created, those maps did not show property lines. It was common that the zone boundary line was the center line of the street, line parallel to the street right of way, or a connecting line.

Attorney Maslan said that prior to 1946 the property was AA zone where one third of an acre was required for each building lot. It was then changed to an AAA zone where one acre was required for each building lot and in 1964 a portion of the property was rezoned in the AAAA zone that required 2 acres for each building lot. A portion of the property remained in the AAA zone. Attorney Maslan said that in 1964 the designations for the zoning districts were changed to the present nomenclature which is the R-1 and R-2 zones. He said that it was not until 1969 that property lot lines first appeared on the zoning maps.

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Attorney Maslan said that in the 1966 Town Plan of Development, a map of existing and future streets shows the potential connection of Hansen Road to meet Christie Hill Road. This is described on page 42 of the text of the 1966 Plan. He said that portion of the Plan was never implemented and is not likely to be implemented in the future because of changing circumstances. Attorney Maslan said that the proposed amendment is to re-zone the R-2 portion of the property to become R-1 and in that way the entire property will be in the R-1 zone. He said this would be in keeping with the current Plan of Development which had been amended in 2003. He read the 2003 Amendment aloud to the Commission.

Attorney Maslan said that the 4.75 acre parcel is unusual on the south and west sides of Hollow Tree Ridge Road and south of Christie Hill Road. He said other properties south of Christie Hill Road are 2.28 acres, 2.22 acres and 2.00 acres. On the north side of Christie Hill Road, the lots are 1+ acres but all of those lots are less than 2 acres in size despite the fact that properties within 500' of Hollow Tree Ridge Road are in the R-2 zone. He said that this occurred because the properties were subdivided before the R-2 zone was implemented. Attorney Maslan said that ideally the Commission should reconsider the designation of those properties (on the north side of Christie Hill Road) as well. He said that he has not included them in the application because his clients have no ownership interests in those properties. He said rezoning those properties would make them conforming to the R-1 designation.

Mr. Damanti asked if it was possible to move the zone line to the west on the Cottle property so that all of the Cottle property would be in the R-2 zone. Mr. Maslan said that it would be possible, but noted that virtually all of the lots on Christie Hill Road are approximately 1 acre in size not 2 acres in size. He said that there is only 1 other lot on Christie Hill Road that has 2+ acres.

Attorney Maslan said that the Commission is now considering a proposal to rezone areas along Five Mile River Road so that the zone boundary line would coincide wherever possible with property lines. He incorporated a full size copy of the Town Zoning Map in his application by reference. Mr. Damanti noted that there is a considerable difference between the Five Mile River Road zone line adjustment proposal and the Cottle zone line application. Mr. Maslan said that it is appropriate that the Five Mile River Road zone line amendment would make the zone line coincide with the lot lines wherever possible. Mr. Kenny noted that it might be more appropriate to rezone the Cottle property so that all of the property is in the R-2 zone. Attorney Maslan said that that might result in a takings claim because some of the Cottle property is already in the R-1 zone and already has the potential to be developed under those zone regulations.

Mr. Spain said that the Five Mile River Road proposal is taking a whole neighborhood and trying to make more sense out of the zone line. He said that Attorney Maslan's application is suggesting that the Commission down zone for 1 property owner. He said that the Commission could leave the zoning in its present condition, could change the zoning as requested or could approach the entire neighborhood as a project to clarify the zoning districts. Attorney Maslan said that somebody had to bring this matter to the Commission's attention and he said that the property owner does have a right to submit a request to change the zone by design. He said that the owners want to know if and how much their property could be divided. He said that the

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Cottles do not want the zone line moved to the west because that would limit/restrict development and use of their property.

Attorney Maslan said that he discussed this matter with Ernie Bothwell, the owner of property to the south, and Mr. Bothwell supports the application. Attorney Maslan said that if Dr. and Mrs. Cottle propose to develop the property at some point in the future, they would need to apply to the Environmental Protection Commission (EPC) for any development activity that would be within the EPC's jurisdiction. A subdivision application would then need to be submitted to the Planning & Zoning Commission. He said that one possible benefit of a potential subdivision application would be the possible extension of the sanitary sewer line. He said that at least 10% of the land would be set aside as permanent open space and would possibly have a conservation easement to protect it from further development activities.

Ray Redniss, Land Surveyor, spoke on behalf of Dr. & Mrs. Cottle. He said that more than 50% of the site is in the R-2 zone. He said that 2.57 acres of the 4.5 acre site is in the R-2 zone.

Director of Planning, Jeremy Ginsberg, distributed copies of letters from 3 neighbors to the Commission members.

Attorney Stephen Pierson spoke on behalf of Mr. & Mrs. Barry. He said that the Cottles purchased the property in 1970 long after the zone lines and zone boundaries were established. He said that there are wetlands in 2 areas of the property and the request is to move the zone line approximately 160' to the east in order to accommodate increased development activity. He said that the Halter Ridge subdivision and development occurred in 1925 and was part of a division of approximately 277 acres of land. The lot sizes vary from 1 to 7 acres in size. Attorney Pierson said that part of the Halter Ridge subdivision includes some deed restrictions that only allow 1 house per lot.

Attorney Pierson said that the Cottle property is subdividable as is. He said that circumstances are not very different now from when the zone line was first established in its present location. He said that it is stable the way it is now and changing the zone boundary would destabilize the area. He said that diversity of lot size is a good thing for the community and changing or down zoning an area is not a good thing.

Chairman Damanti noted that in their letter, the Barry's say that they did not get notice of the public hearing. Mr. Ginsberg said that he has researched this matter and the applicants sent the notice to the mailing address that is contained in the Tax Assessor's records. Apparently, the Tax Assessor's records are not up to date, but the applicant did fulfill their requirement under the Zoning Regulations, and the Barrys did receive some notice, albeit not as early as they might otherwise have received.

Peter Barry of 43 Wee Burn Lane said that he is very concerned with additional development in the area. He noted that the occupancy of the apartment units of Avalon Darien project has resulted in more students in the elementary and other schools in Darien. He said that downzoning the property and allowing more development would mean more and more students in the schools.

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Dan Brickman noted that he had submitted a letter to the Commission. He said that there was a very short time from when they received notice of the meeting until the actual meeting. He said that it is nothing personal, but that since he lives to the east of the Cottle property, he is very concerned. He has spoken to a number of other neighbors who are also opposed to the request to rezone the Cottle property. Mr. Brickman said that no one knows what the Cottles' plans would be. Could they get 4 additional lots? Could they divide the property to accommodate 4 lots? He said that there is another large parcel of property to the west that might accommodate 3 more possible building sites. He said that there is a wetlands and a very high water table in the area. He expressed concern about how increases in development could impact his property and the property of other neighbors. He said that when he purchased his property, he knew that there was a 2 acre lot next store. He said that the Commission should not amend the zoning boundary to accommodate additional development.

Mr. McDonough of 38 Wee Burn Lane said that he is opposed to any work in or near the wetlands because it would impact the neighboring properties. He said that he is opposed to down zoning the area because it would allow for more development and that an increase in development would impact the school system.

Wendell Wilkie said that he lives across the street (he is on the north side of Christie Hill Road). He said that there is potential to divide and develop the property under the current zoning regulations, but if the area is rezoned it could allow 4 lots and that would be too much development because it would impact the neighborhood. He asked that the Commission delay the process so that other neighbors would have an opportunity to appear before the Commission and make their opposition known.

Attorney Maslan said that even if the zone boundary is changed, it would most likely result in only 3 building lots on the site. If any proposed subdivision or development is proposed, then the neighbors would have specific plans and designs upon which to comment. Attorney Maslan said that he had received a phone call from Mr. Carins and that he had responded to Mr. Carins by faxing a copy of the map and plan to him.

Mr. Brickman asked what the process would be. Chairman Damanti explained that if the public hearing is closed, then no more testimony or letters or documents could be entered into the record or considered by the Commission. If the Commission chooses to continue the public hearing to a later date, that would allow additional information to be submitted. After discussion, the following motion was made: that the Commission close the public hearing regarding this matter. The motion was made by Mr. Kenny, seconded by Mr. Conze and unanimously approved. The motion passed and the public hearing was closed.

Chairman Damanti read the following agenda item:

**Business Site Plan #90-K, Pear Partners, LLC, 1077 Boston Post Road.** Proposing to renovate and to construct additions and alterations to the existing building and perform related site development activities. The subject properties are on the northwest side of Boston Post Road, approximately 550 feet northeast of its intersection with Leroy Avenue, and is shown on Tax Assessor's Map #73, as Lots #7 and #42 in the CBD Zone, with shared parking on Lots #40 and #41 in the CBD and PR Zones.

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Chairman Damanti said that as an attorney, he is presently in negotiations with the applicant's attorney on a different property and a different project and a different client. He sees no conflict of interest but wanted everyone to know that he is currently dealing with the applicant's attorney regarding a different matter.

Commission member Conze said that 6 or 7 years ago he had a business relationship with one of the partners of Pear Partners, LLC. He said that he has had no business since then with that partner and he sees no conflict of interest because that business relationship has not been active for many years.

Attorney William Hennessey spoke on behalf of the applicants and said that they see no conflict of interest with either Mr. Damanti or Mr. Conze participating in this matter. Attorney Hennessey noted that they previously submitted proof of mailing of notification to neighboring property owners. He said that Pear Partners consists of Tom Golden and Arthur Collins who have been long time residents of the community. He said that they purchased the property in January of 2003. Their plan is to preserve the movie theatre aspect of the site and to create active retail uses to help reinvigorate the Central Business District of Darien. He displayed a map showing existing site conditions highlighting the site boundary lines in yellow and the zone boundary lines in green. Most of the property is in the Central Business District but a portion of the property is in the parking residential (PR) zone.

Attorney Hennessey said that the building was constructed in the 1920's and contains approximately 17,280 square feet of floor area. Approximately 10,780 square feet is on the ground floor and 6,500 square feet is on the second floor. At present the two screen movie theatres have a total seating capacity of 540. There is approximately 3,750 square feet of retail space on the ground floor. That retail space is presently vacant. There is approximately 5,000 square feet of vacant office space on the second floor. There is a shared or common parking lot to the rear and side of the building. The shared parking agreements go back to the 1960's. The earliest documentation of the common parking lot is an agreement signed with The Sport Shop and the bank in the 1960's. The most recent agreement was signed between The Sport Shop and the movie theatre owner/operator in the 1970's. Mr. Hennessey said that there is considerable on street parking in the immediately vicinity and a large number of off street parking spaces owned and/or operated by the Town of Darien. These are the commuter parking lots that are used on business days but are very under utilized on weekends and holidays.

Attorney Hennessey said that the proposal is to keep the front façade of the building and substantially renovate the rest of the building. Additions will be constructed on the east and west portions of the back of the building. A one story addition on the east side of the building would add approximately 3,000 square feet of additional retail space. The addition to the west side of the building would be 2 stories in size and would provide access to the existing second floor. The existing retail spaces on the first floor and the movie theatre on the first floor will be substantially renovated.

Attorney Hennessey said that the first floor would be occupied by the Ann Taylor Loft, a retail store. This store would occupy 5,500 square feet of floor space and the entrance would face the Boston Post Road and it would be located under the front marquee. The 3,000 square foot

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addition on the east side of the building would be another retail use and would be accessed from the east side of the building and the Boston Post Road. At this time the tenant for this space is unknown. The movie theatre would be located in the back section of the building. There was some discussion about the location of the entrance door to the movie theatre. Architect Do Chung said that the original design of the entrance to the movie theatre was on the west side of the building, but that has been changed so that the entrance door will now be on the back of the building. Emergency egress doors will also be located on the back of the building.

Mr. Chung said the addition on the east side of the building does not get any wider than the widest part of the front of the building. He said that there would still be a sidewalk along the east side of the building and that the access for unloading the vehicles would be located where the dumpster is at the present time. Both the dumpsters and the propane tanks (which are located in that area) would need to be relocated. He said that delivery trucks would access the rear of the building from Boston Post and/or from Grove Street. He said that there will be good access and maneuvering area.

Mr. Chung said that the loading dock is shown on Drawing A1(a), even though it is not shown on some of the other drawings. He said that some merchandise will need to be moved by hand truck from the rear of the building to the front entrance doors because there is no interior hallway within the building and no common unloading dock that is accessible from within the building. In response to other questions Mr. Chung said that he has added a second egress door from each of the two screens within the movie theatre.

Architect Do Chung said the second floor will be occupied by the Elizabeth Arden Spa. There would be an elevator to move clients from the ground level up to the second floor. There will be a main entrance stairway on the west side of the building. A second stairway, located in the central portion of the Elizabeth Arden space, will be an egress stairway from the second floor and will exit directly to the sidewalk on the Boston Post Road side of the building.

Mr. Chung said that the marquee on the Boston Post Road side of the building will list the movies that are being shown in the movie theatre although the access to the theatre will be from the back of the building. The marquee would also have signs for Elizabeth Arden and Ann Taylor.

Commission member Kenny asked if it was possible to move the entrance to the theatre to be on the side of the building rather than the rear of the building. Mr. Chung said the entrance was designed on the rear of the building because it will be where the parking is located. In response to a question about where people would queue up for tickets, Mr. Chung said that they would queue up on the west side of the building. Peter Vivian explained that he has been the operator of the theatre since January. He said that most people buy their tickets in advance and there is no need for a big queuing area.

Mr. Kenny said that he had read in part of the application materials that Elizabeth Arden will be offering valet parking service. He asked for more details about that matter. Mr. Chung said that the valet person will be located at the entrance door to Elizabeth Arden space. That entrance door is on the west side of the building (on the left when viewed from the Boston Post Road). Attorney Hennessey said that they are currently looking for off site areas so that the valet

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service can park the customer cars at locations other than the existing parking lot on the site or the shared parking lot with the other adjacent properties.

Attorney Hennessey said that all of the proposed uses qualify as permitted uses within the Central Business District. He said that the vacant space on the first floor will also be a similarly qualified permitted use. He said that the Elizabeth Arden spa will be at very upscale use and will take appointments. This will allow them to control the number of clients at the site at any given time. Mr. Hennessey said that they are currently working with the Board of Selectmen to obtain permission to use the nearby municipal parking lots on weekends and holidays. He said that they need to continue the discussions with the Selectmen in the near future and work out an arrangement and have a written agreement for the use of this municipal parking lot. Mr. Hennessey said that the small community theatre is a dinosaur. He said that the industry is dominated by big multiplexes and that the building is not in good shape. The building needs major renovation and the theatre use needs lots of space and needs that space on the first floor. Unfortunately, it is economically difficult to preserve the theatre building and the theatre use, but the partners want to do that because they have a respect for the community and the historic use of the site.

Mr. Hennessey said that when all of the businesses in the vicinity are doing well and when the movie theatre is operating, there would be a short fall in the number of parking spaces in the common parking area. He asked that the Commission continue the public hearing to a future date so that the applicants can continue to work on solving the parking shortage.

David Sullivan, P.E., of Barkan and Mess Traffic Consultants said that his firm has had a long history of studying the site because they have been involved in previous applications regarding this property. He said that they studied the traffic volumes, the circulation routes, and the parking situation. He said that the traffic levels, particularly on Route 1 (the Boston Post Road) are very sensitive to congestion on I-95. People will frequently use Route 1 as an alternate if I-95 is backed up. He said that the traffic conditions in the area result in Level of Service C or D at some intersections and that the proposed additions and alterations to the movie theatre building will not change those levels of service.

With respect to truck and traffic circulation, Mr. Sullivan said that the loading and unloading areas are designed for small trucks (not tractor trailers) to access the unloading areas at the back of the building. Most of those trucks would be entering from the Boston Post Road between the bank and the movie theatre. He showed diagrams of truck entering / exit patterns. Mr. Kenny noted that some of the trucks might not be able to get underneath the railroad tracks over the Boston Post Road. Mr. Sullivan said that the typical height of the truck for deliveries would be 14 feet tall. He said that those trucks would not be able to go under the railroad tracks. They would generally come from I-95 to the site.

Mr. Sullivan said that the shared parking arrangement is between the bank/antique store, the Darien Sport Shop, and the theatre site. He said that recent counts of the actual site conditions show 191 parking spaces in the large parking area. Seven of those parking spaces are on the Cavallo property and are not part of the joint agreement. That leaves 184 parking spaces being shared by the 3 parties. Mr. Sullivan said that recent counts of parking space use were conducted at the Sport Shop and bank on Thursdays and Saturdays in May. He said that the theatre was

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very busy on the Saturday because it was the opening of a very popular children's movie. He said that the parking studies show the typical peaks and patterns. The parking counts were conducted every 20 minutes. On Saturdays, with the convergence of the theatre matinees, the Sport Shop being busy, and the other businesses in the area being open, there were 170 plus or minus parking spaces filled. Mr. Sullivan said that the Ann Taylor store and the yet to be determined retail store will typically generate a need for 4 parking spaces for every 1,000 square feet. He said that is an industry standard. He said that the Elizabeth Arden Spa & Salon will generally need one parking space for each client and one parking space for each attendant. He estimates that there will be 30 work stations and, therefore there will be a need for 60 parking spaces for the Elizabeth Arden facility. He said that the movie theatre seating is being reduced from 540 to 300, but they are not assuming any reduction in the parking demand and no reduction in parking based on walk-up or drop-off customers for the movie theatre. Mr. Sullivan said that during weekdays, even with the new businesses in full operation, there should be no parking problems. He does not anticipate a parking problem on Sundays either. He said that on Saturdays there will be a potential parking problem because there would not be enough parking spaces to accommodate all of the customers and workers during the peak times.

Mr. Sullivan said that to address the peak time parking problems on Saturdays there are a number of things that can be done. These include:

- Staggering the starting times of the movies so that there would only be one movie showing at a time or the first set of movies is completed and the patrons can leave before the customers for the second set of movies would arrive; all employees should park off-site to allow the on-site spaces to be available for customers. This could be enforced by the operators of the businesses.
- Valet parking for the Elizabeth Arden Salon & Spa because they can, through their appointments, control the arrival time of clients and they know when the clients will be leaving.
- Use off-site parking for the valet service. There are three municipal lots in the vicinity, Grove Street, Squab Lane and Leroy West. Each could be available for employees and the valet service.
- Valet service at the Elizabeth Arden site could be operated by relocating some of the handicapped parking spaces and marking off four of the parking spaces on Saturday mornings so that they will be available for quick drop-off by the customers. From there, the valets could move the cars to the off-site location. The temporary stacking or storage of cars in the four spaces would allow the customers quick access to the business and allow the valet service to absorb any peaks in drop-off traffic.
- Leave at least one lane of traffic near the Elizabeth Arden entrance as a flow through traffic lane rather than requiring that vehicles back up in the traffic aisles.

Veronica Whitehill of 23 Harbor Road said that she shops in Darien quite frequently and that the shop owners across the street from the movie theatre are distressed with the current proposal because parking in the area is not easy for customers. She said that it is very congested now and that the parking that the applicants' expert is describing will not work. She read a list of beauty salons and spas in Darien. She said that 45 people are employed at the Lanphier Spa in the Goodwives Shopping Center. She noted that the proposed spa on the second floor of the movie



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theatre building would probably have more employees and that the proposed use and congestion would prove to be a nightmare.

Flora Smith of 42 Hamilton Lane said that she had lived in the area for 16 years and has never had a problem parking at the Sport Shop or in the vicinity. She said that the Commission must work with the developer to find a way to salvage the movie theatre and that parking from the proposed use would not be likely to be a problem.

Ken Reiss said that he was a partner in the business at 1072 Boston Post Road. He said that there is ample parking space on his business site and in the general area.

Gretchen Grisanti of 118 Delafield Island Road said that she does want the town to be revitalized but she does not want a parking problem to be created. She said that there are already 3 salons in close proximity to the proposed salon at the movie theatre site and that if the Elizabeth Arden use does not get enough customers to support it, then we will have a very large business space that will be occupied by some other enterprise. That other business might not provide the same type of scheduling or valet parking service.

Tom Geary spoke as Chairman of the Business Development Committee of the Darien Chamber of Commerce. He said that the Committee is unanimously in support of the application and that there is really no parking problem on the site or across the street.

Kip Taylor of 1 Old Stone Road said that traffic is already a problem and is getting worse. She said that more traffic and parking demand will create more serious problems and that there is no viable solution to these problems.

Attorney William Hennessey said that the Architectural Review Board has reviewed the plans and submitted a Letter of Recommendation to the Planning & Zoning Commission. He also submitted a September 9, 2003 memorandum from the Board of Selectmen and a September 16, 2003 letter from Attorney Jay Sandak. Additional items submitted by Attorney Hennessey include a copy of the tax assessor's field card, a history/chronology of the movie theatre site uses, the zoning table, a copy of the abstract of the title, and copies of the parking agreements.

After a brief discussion, the Commission members felt that it was important that the public hearing be continued. The following motion was made: That the public hearing regarding this matter be continued on October 14, 2003. The motion was made by Mr. Kenny, seconded by Mr. Conze and unanimously approved.

At 10:40 p.m. the Commission took a brief recess. The Commission resumed the meeting at 10:45 p.m. Chairman Damanti read the following agenda item:

**Business Site Plan #184-B/Special Permit, Rory's Restaurant, 416 Boston Post Road.** Proposing to modify the existing restaurant by adding onto the existing kitchen, modifying the access drive and parking, and perform related site development activities. The subject property is on the south side of the Boston Post Road at the northeast corner formed by the intersection of Boston Post Road and Old King's Highway North, and is shown on Tax Assessor's Map #32, as Lot #22, in the DB-2 Zone.

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Tom Geary represented the owners and operators of Rory's restaurant. He said that the restaurant was established in 1978 and had a seating capacity of 52 persons. He said that the kitchen does not comply with the current Health Code. The plan submitted to the Commission is to enlarge the kitchen facilities so that it can be brought into compliance with the Health Code. Mr. Geary said that it was not the operator's intent to have to expand the restaurant, nor do they want to expand the building, but they must do so in order to comply with the Health Code requirements. He said that there would be no change in the seating capacity of the restaurant. He said that the additions and alterations would cost approximately \$300,000. He said that the operators of the restaurant are the tenants of the property, not the owners of the property. Mr. Geary said that in May of 2003, the Zoning Board of Appeals approved the variance of the parking requirements to allow the expansion of the restaurant subject to the stipulation that they need to revise the parking layout on the site to create at least 12 legal parking spaces. He said that the submitted site plan has been modified accordingly and that they will need to do some site work in order to accomplish the Zoning Board of Appeals required work.

Mr. Geary said that they have received letters of support from many of the adjacent neighbors. He said that the owners of the adjacent shopping area, Heyman Properties, have written a letter of support. They also have a letter of permission from adjacent lot owners to allow customers to park when the adjacent businesses are not open. Mr. Geary submitted a letter from the Darien Police Department regarding the legality of parking on Old King's Highway North. Mr. Geary explained that on Thursday evenings, when other businesses in the area stay open late, Rory's does offer valet parking for its customers. Mr. Geary said that it has a lunch time surge from noon until 1 p.m. and a dinner surge that lasts longer. He said that as part of the site work, they will be removing the garage and breezeway from the adjacent house (which is on the same property as the restaurant) to comply with the building coverage and maximum site developed area limitations and the need for additional on site parking. Mr. Geary said that the house is used as a residence and that it is independent from the restaurant operation.

Mr. Geary submitted a letter of approval of the design from the Architectural Review Board. He also submitted a letter from Bob Montlick, who owns property across the street and a letter of insurance and a separate letter of authorization. In response to questions, Mr. Geary said that they must shut the business down for a few months in order to construct the addition and redo the kitchen.

Director of Planning, Jeremy Ginsberg, said that the Fire Marshal has expressed concern about the access near the ledge. The ledge is located in an area between the house and the restaurant building. The Fire Marshal is concerned that emergency vehicles might not have adequate access to the buildings unless the ledge is removed. Mr. Geary said that he will review this matter with the Fire Marshal to make sure that adequate access for emergency vehicles will be provided.

There were no comments from the public regarding the application. There being no further questions or comments regarding the application, the following motion was made: That the Commission close the public hearing regarding this application. The motion was made by Mr. Kenny, seconded by Mr. Conze and unanimously approved.

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Chairman Damanti read the following agenda item:

**Coastal Site Plan Review #185, Flood Damage Prevention Application #197, Land Filling & Regrading Application #105, T. Mark & Margaret Maybell, 21 Tokeneke Trail.** Proposing to restacking of existing seawall; installation of new lawn and planting area; addition of stone steps; and construction of stonewall and perform related site development activities within regulated areas. The subject property is located on the south side of Tokeneke Trail approximately 1,200 feet southwest of its intersection with Runkenhage Road, and is shown on Tax Assessor's Map #69, as Lot #37 in the R-1 Zone.

Architect McKee Patterson of Austin Patterson Disston Architects explained that the proposal is to perform site work in the vicinity of the shoreline. Much of the work will involve planting of landscaping in an area adjacent to the waterfront.

Eric Groft, Landscape Architect, said that there were 3 goals of the landscaping program. These include improving the existing conditions, providing maintenance that has been long deferred on the property, and providing vegetation that will slow runoff before it gets into Scott's Cove and Long Island Sound. As part of this, they will be cleaning up the wall along the water's edge and they will be planting vegetation on the uphill side of the wall. Mr. Groft said that they will be working on the retaining wall adjacent to the driveway and regrading the driveway accordingly. He noted that there are native evergreen trees that will be planted between the subject property and the neighbors. This will provide screening and buffering from the neighbors. Mr. Groft reviewed photographs, plans and cross section drawings of the existing and proposed conditions. He said that changing the retaining wall will reduce the slope of the land from 41% to 19%.

There were no questions or comments from the public. After a brief discussion, the following motion was made: That the Commission close this portion of the public hearing regarding this application. The motion was made by Mr. Kenny, seconded by Mr. Conze and unanimously approved.

Chairman Damanti read the following agenda item:

**Land Filling & Regrading Application #104, Patricia Annecchino, 300 Brookside Road.** Proposing to remove existing driveway and construct a new driveway approximately 55 feet south of the existing location with parking court, and perform related site development activities. The subject property is located on the east side of Brookside Road, approximately 250 feet south of its intersection with Marianne Road, and is shown on Tax Assessor's Map #4, as Lot #16 in the R-2 Zone.

James Thompson, architect, explained that the application involves relocation of a driveway to improve site lines and provide a less steep access to the front courtyard. To do this, they will be moving the driveway approximately 55 feet south from its present location. He said that the curve in Brookside Road limits sight line visibility to the south of the present driveway location. To relocate in the driveway will substantially improve sight line and therefore safety.

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Letters sent by 7 neighbors are in support of the application. Mr. Thompson said that they are moving the driveway to the south and that this will require regrading of the area within 15 feet of the property line. They are moving a minimum amount of material. Much of the material from the new driveway will be stockpiled until the new driveway is accessible. The stockpiled material will then be used to fill in the old driveway.

In response to questions, Mrs. Anecchino and Mr. Thompson said they have talked with the neighbor across the street about the relocation of the driveway. There had been some concern that the driveway would be directly across from the neighbor's front door. The plans have been modified to avoid headlights from vehicles using the new Anecchino driveway, heading straight toward the neighbor's front door. The driveway has been modified and angled slightly. There were no comments or questions from the public. After a brief discussion, the following motion was made: That the public hearing regarding this matter be closed. The motion was made by Mr. Kenny, seconded by Mr. Conze and unanimously approved.

There being no further business, the meeting was adjourned at 11:10 p.m.

Respectfully submitted,

David J. Keating  
Assistant Director of Planning